

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

DON LAMAR LOVE

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Case No. 4:11cr28
(Judge Schell)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 12, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Jay Combs.

On August 19, 1999, Defendant was sentenced by the Honorable Ortrie D. Smith to one hundred and thirty-five (135) months' custody followed by five (5) years of supervised release for the offense of Conspiracy to Distribute Cocaine Base. On May 1, 2008, Defendant completed his period of imprisonment and began service of his supervised term. On March 7, 2011, this case was transferred to the Eastern District of Texas, Sherman Division, and assigned to United States District Judge Richard A. Schell.

On October 18, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: (1) the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The petition alleges that Defendant committed the following acts: (1) On January 8, 2010,

February 1, 2010, March 18, 2010, March 24, 2010, April 17, 2010, April 20, 2010, April 26, 2010, May 7, 2010, May 19, 2010, May 27, 2010, June 4, 2010, October 14, 2010 and November 4, 2010, May 4, 2011, May 20, 2011, May 26, 2011, May 31, 2011, June 29, 2011, July 19, 2011, July 29, 2011, August 1, 2011, August 18, 2011, August 26, 2011, and September 17, 2011, the Defendant submitted urine specimens that tested positive for marijuana.

Prior to the Government putting on its case, Defendant entered a plea of true to the violation. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 13th day of March, 2012.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE